

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ALBERT MONTGOMERY,

:
Plaintiff,

:
vs.

Case No. 3:15cr005

WARDEN, ROSS CORRECTIONAL
INSTITUTION, *et al.*,

:
JUDGE WALTER H. RICE

Defendants. :

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (DOC. #2) IN THEIR
ENTIRETY AND OVERRULING PLAINTIFF'S OBJECTIONS TO SAID
JUDICIAL FILING (DOC. #3); PLAINTIFF'S PETITION FOR WRIT OF
MANDAMUS DISMISSED WITHOUT PREJUDICE TO REFILING IN
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, EASTERN DIVISION, IN COLUMBUS, OHIO; TERMINATION
ENTRY

1. Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in her Report and Recommendations of January 9, 2015 (Doc. #2), as well as upon a thorough review of the entirety of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety. Plaintiff's Objections to said judicial filing (Doc. #3) are overruled in their entirety. Plaintiff's Petition for Writ of Mandamus is dismissed, without prejudice to refiling, in the United States District Court for the Southern District of Ohio, Eastern Division, in Columbus, Ohio, as a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 after exhaustion of state remedies.

In ruling as aforesaid, this Court would point out to the Plaintiff that federal courts have no original jurisdiction over Petitions for Writs of Mandamus to compel state (as opposed to federal) officials to take certain action or desist from taking certain action.

2. The Plaintiff's failure to submit a filing fee is not the basis for this Court's ruling.

The captioned cause is ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

March 12, 2015

Walter H. Rice

WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Albert Montgomery, *Pro Se*